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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,590	09/15/2003	Charles J. Farrell		9322
22188	7590	02/06/2004	EXAMINER	
<b>JACK LO</b> 617 VIEWRIDGE DRIVE PACIFICA, CA 94044				HALE, GLORIA M
		ART UNIT		PAPER NUMBER
				3765

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/662,590	FARRELL, CHARLES J.
Examiner	Art Unit	
Gloria Hale	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2,6 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regard to claims 2, 6 and 10 it is not clear as to what the term "open centers" actually encompasses as described in the specification on page 3, line 17. It is not clear as to how the "open centers" are open. Is it the center of the circular band itself that has an open center that is filled with the fabric of the cup portion or are the centers open entirely to expose the skin of the wearer. It is not clear as to whether there is a bra portion within the ring center. The drawing appears to show the center of the ring as containing bra fabric.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 6, 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 6 and 10 are not clear for the same reasons as discussed above in regard to the "open centers". Claim 8 is not clear in that the claim states that the buckles are attached to the respective tops of the cups. However, the claim then states that the slide buckles are movable therefore they cannot be attached to the tops of the cup. The slide is attached to the straps, which are adjustable with the slide and are attached to the upper edge of the cups. The tightening of the straps with the slide also tightens the cup fabric and when loosened, loosens the cup fabric about the breast. Adjusting the slide up the strap makes the cup fabric taut and when lowered loosens the tautness of the cup fabric.

However, the claims, as best understood, have been examined on their merits.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwenkler (US 1,019,537).

In regard to claim 1 Schwenkler discloses a reinforced bra as seen in figures 1 and 2 comprising a pair of cups within (a) for supporting a pair of breasts; a horizontal back strap (c); a pair of vertical shoulder straps (b) and non-stretchable reinforcing rings (a) as broadly claimed and as best understood. (See Schwenkler, figures 1 and 2 ; page 1, line 30,36-40 and 47).

In regard to claims 2 and 3, the rings (a0 of Schwenkler have open centers and are more rigid than the cups which are open. (See figures 1 and 2 and page 1, lines 30,36-40 and 47).

In regard to claim s 4 and 5 Schwenkler discloses a reinforced bra as seen in figures 1 and 2 comprising a pair of cups within (a) for supporting a pair of breasts; a horizontal back strap (c); a pair of vertical shoulder straps (b) and non-stretchable reinforcing rings (a), as broadly claimed and as best understood, in addition to the non-stretchable suspension strips (l,h) connected between the respective rings and shoulder straps (b) and wherein the suspension strips (l,h) are integral extensions of their respective shoulder straps. In regard to claims 6 and 7 the rings (a) of the suspension strips are comprised of more rigid material than the open centers which form the cups. (See Schwenkler, figures 1 and 2; page 1, line 30,36-40 and 47). In regard to claim 8, Schwenkler discloses a reinforced bra comprising a pair of cups arranged within (a) for supporting a pair of breasts; a horizontal back strap (c); a pair of vertical shoulder straps (b); rings (a), suspension strips (l, h) and buckles (l,m) which are movable through conventional buckle strap holes and wherein the suspension strips (l,h) are integral extensions of the respective shoulder straps as claimed in claim 9. In regard to claims 10 and 11, Schwenkler discloses the rings (a) as having open centers and wherein the rings (a) and the suspension strips are comprised of more rigid material than the cups which are open. (See Schwenkler, figures 1 and 2 and lines 30,36-40 and 47).

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Anselmo (US 2,452,345).

In regard to claim 1, Anselmo discloses a reinforced bra (not numbered, as seen in figure 1); a horizontal back strap (2); a pair of vertical shoulder straps (3) (See col. 1, line 53) connected between respective tops of the cups through the looped strap portion (not numbered) and the back strap (see col. 2, lines 6-8); and non-stretchable reinforcing rings (9,10) as broadly claimed. (See Anselmo, col. 2, lines 22-41). In regard to claims 2 and 3 the rings (9,10) have open centers (8) and are comprised of a more rigid material with padding 9 and material layer 10. In regard to claims 4 and 8 Anselmo discloses the invention substantially as claimed as discussed above in regard to claim 1 and further discloses the non-stretchable suspension strips (the looped strips above (6) and below the adjuster slide) and which are connected between respective rings and respective shoulder straps (3) which prevent the forward portions of the cups from sagging such as when the slide is tightened on the looped strap the cup is shortened and when the slide is loosened the distance is lengthened. Anselmo discloses the buckle as seen in figure 1 and not numbered. Anselmo discloses the suspension strips as integral extensions of the shoulder straps (3) as seen in figure 1 and as claimed in claims 5 and 9; the rings (9,10) as having open centers (8) as claimed in claims 6 and 10; and the suspension strips and rings as being comprised of more rigid material than the cups since the rings are of the outer fabric silk layer and a padding material 9 and wherein the cups are only formed of the silk material as broadly

claimed in claims 7 and 11. (See Anselmo, figures 1 and 2; col. 1, line 50- col. 2, line 42).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Vogt (US 6,180,178) patent discloses a brassiere with a reinforced ring area in the cup; Carey (US 3,710,800) and Imershein et al (US 1,664,926) each disclose a bra with a reinforced ring around the cup and Erteszek (US 2,986,143) discloses a bra with a reinforced ring within the cup. Anderson (US 3,200,821); Panes (US 2,523,715) and Murray (US 5,971,834) all disclose bras with adjustable cups attached at the upper edge of the cup. Moity (US 2,015, 151; AX (US 2,406,576 and Licht (US 2,530,829) all disclose bras and undergarments with ring type supports therein which are also adjustable within the cups.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 703-308-1282. The examiner can normally be reached on Tuesday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 and is for the submission of formal responses.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gloria Hale  
Primary Examiner  
Art Unit 3765

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